



Mid Atlantic
Engineering & Environmental Solutions

409 Rogers View Court
Raleigh, NC 27610

office 919.250.9918
facsimile 919.250.9950

MAAONLINE.COM

December 22, 2014

Mr. Tom Haskins
Holden Business Park, LLC
1801 North Tryon Street, Suite B-300
Charlotte, North Carolina 28206

Subject: **LAND USE RESTRICTION UPDATES
HOLDEN BUSINESS PARK
724 MONTANA DRIVE
CHARLOTTE, NORTH CAROLINA
MID-ATLANTIC JOB NO. 000R2422.01**

Dear Mr. Haskins:

As authorized by your acceptance of Mid-Atlantic Associates, Inc.'s (Mid-Atlantic) Proposal P14R-7037 dated November 7, 2014, Mid-Atlantic has prepared a "Land Use Restriction Update" (LURU) document, and a "Letter Report of Groundwater Sampling" for submittal to the NCDENR Brownfields Program. These documents should be read, signed and notarized where indicated, and submitted by you to the NCDENR Brownfields Program no later than January 31, 2015.

Please contact me if you have any questions.

Sincerely,

MID-ATLANTIC ASSOCIATES, INC.

Jeffrey B. Tyburski, P.G.
Senior Geologist

Attachments: Attachment No. 1 – 724 Montana Drive Land Use Restriction Update
Attachment No. 2 – Aerial Site Photograph
Attachment No. 3 - Letter Report of Groundwater Sampling

Attachment No. 1

Brownfields Project #: 05010-01-60

Brownfields Property: ABC Engravers, 724 Montana Drive

Property Owner (In whole or part): Holden Business Park, LLC

LAND USE RESTRICTIONS ("LUR") UPDATE

LUR 1: No use may be made of the Brownfields Property other than for office and warehouse space, and an asphalt parking lot.

In compliance ☒ Out of compliance ☐

Remarks: No changes in land use has occurred or is planned.

LUR 2: Surface water and underground water at the Brownfields Property may not be used for any purpose without the approval of the Department of Environment and Natural Resources ("DENR") or its successor in function.

In compliance ☒ Out of compliance ☐

Remarks: No groundwater or surface water uses have occurred or are planned at the site.

LUR 3: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance ☒ Out of compliance ☐

Remarks: No activities that encounter, expose or use groundwater have occurred or are planned.

LUR 4: Soil underlying paved surfaces and buildings at the Brownfields Property may not be exposed without prior sampling and analysis of such soil to the satisfaction of DENR or its successor in function, and submittal of the analytical results to DENR or its successor in function. If such results disclose contamination in excess of the applicable standards as determined by DENR or its successor in function, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

In compliance X Out of compliance _____

Remarks: No activities that encounter or expose subsurface soils have occurred or are planned.

LUR 5: Soil not previously sampled for contaminants may not be exposed without a minimum of five (5) business days advance written notice to DENR or its successor in function. At the time such soil is exposed, DENR or its successor in function may inspect and sample, or require sampling of, the exposed soil for contaminants. If soil contamination is discovered that DENR or its successor in function determines would likely contaminate groundwater even if capped, or that may pose an imminent threat to public health or the environment if exposed, as much soil as DENR or its successor in function requires shall be removed and disposed of in accordance with applicable law, and any other actions that DENR or its successor in function requires to make the Brownfields Property suitable for the uses specified in this Agreement while fully protecting public health and the environment shall be taken. If soil contamination is discovered that DENR or its successor in function determines would not contaminate groundwater if capped, or pose an imminent threat to public health or the environment if exposed, as much soil as DENR or its successor in function requires shall be removed and disposed of in accordance with applicable law or capped to the satisfaction of DENR or its successor in function.

In compliance X Out of compliance _____

Remarks: No activities that encounter or expose subsurface soils have occurred or are planned.

LUR 6: Soil, landscaping and contours at the Brownfields Property may not be disturbed without the approval of DENR or its successor in function, except for mowing and pruning of above-ground vegetation.

In compliance X Out of compliance _____

Remarks: No activities that encounter or expose subsurface soils have occurred or are planned.

LUR 7: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance ☒ Out of compliance ☐

Remarks: No mining planned or conducted.

LUR 8: No basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

In compliance ☒ Out of compliance ☐

Remarks: No activities that encounter or expose subsurface soils have occurred or are planned.

LUR 9: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in Exhibit A paragraph 12 of the Notice of Brownfields Property, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance ☒ Out of compliance ☐

Remarks: In compliance.

LUR 10: The Brownfields Property may not be used as a park or for sports of any kind, including, but not limited to, golf, football, soccer and baseball, without the approval of DENR or its successor in function.

In compliance ☒ Out of compliance ☐

Remarks: No changes in land use has occurred or is planned.

LUR 11: The Brownfields Property may not be used for agriculture, grazing, timbering or timber production.

In compliance ☒ Out of compliance _____

Remarks: No changes in land use has occurred or is planned.

LUR 12: The Brownfields Property may not be used as a playground, or for child care centers or schools.

In compliance ☒ Out of compliance _____

Remarks: No changes in land use has occurred or is planned.

LUR 13: The Brownfields Property may not be used for kennels, private animal pens or horse-riding.

In compliance ☒ Out of compliance _____

Remarks: No changes in land use has occurred or is planned.

LUR 14: Beginning in the first January following the year in which the Notice of Brownfields Property referenced in Exhibit A paragraph 24 is recorded, and every January after that unless and until DENR determines in writing that protection of public health and the environment no longer require such sampling, the owner(s) of the Brownfields Property shall effect sampling of the monitoring wells and sampling of the adjacent stream in accordance with the most current version of the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section. The groundwater and stream samples collected during such activities shall be analyzed by EPA Method 3010/6010 for Total Chromium and Method SM 3500-Cr D for Hexavalent Chromium or any comparable method approved in advance by DENR. A Groundwater Monitoring Report setting forth the procedures and results of these groundwater sampling activities shall be submitted with the Land Use Restrictions Update.

In compliance ☒ Out of compliance _____

Remarks: The sampling described in LUR 14 has been completed and is included in the attached Letter Report of Groundwater Sampling, dated December 19, 2014 prepared by Mid-Atlantic Associates, Inc. (Attachment)

LUR 15: During January of each year after the Brownfields Agreement becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function

certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Mecklenburg County Register of Deeds office, that the land use restrictions are being complied with, and that impervious surfaces at the Brownfields Property are being maintained such that they are continuing to function as caps. A report on the sampling required by the preceding land use restriction, accompanied by the sampling data, shall be submitted with the LURU during January following each sampling event.

In compliance X Out of compliance _____

Remarks: Pavement on the property continues to serve as a contaminant cap as per Mid Atlantic Associates, Inc. field observations during groundwater sampling activities conducted on December 10, 2014. Also see Attachment 2. Aerial imagery of the property taken March 2007, May 20, 2012 and 2014 (month not provided by Mecklenburg County). This photo imagery shows no major changes in the condition of the asphalt surface at the site.

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Mecklenburg County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by Mid-Atlantic,
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: Jeffrey Tybueski

In the case of owners that are entities:

Signature of individual signing: _____
Name typed or printed: _____
Title: _____

In the case of all owners:

Date: 23 Dec 14

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

Holden Business Park
[Insert Name of Corporation]

By: [Signature]

Name typed or printed:

Title typed or printed:

Gary D. Olmstead
Vice Pres.

ATTEST:

Gary Olmstead
Name typed or printed:
Secretary, Holden Business Park (corporation name)

NORTH CAROLINA
Mecklenburg COUNTY

I, Johnathan R. Myers, a Notary Public of the county and state aforesaid, certify that Gary Olmstead personally came before me this day and acknowledged that he/she is the Secretary of Holden Business Park (corporation name), a North Carolina (state) corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its Vice President and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this 22nd day of December, 2014.

Johnathan R. Myers
Name
Notary Public

My Commission expires: 5/11/2019

[Stamp/Seal]

